

## **Tender Specifications**

### **Attached to the Invitation to tender**

#### **Invitation to tender No. EMSA/NEG/21/2017 for Preventive Cleaning of Sewage System in EMSA building**

##### **1. Introduction**

The European Maritime Safety Agency (EMSA) was established under Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>1</sup> for the purpose of ensuring a high, uniform and effective level of maritime safety. More information is available at: <http://emsa.europa.eu>

##### **2. Objective, scope and description of the contract**

The purpose of this tender is to maintain sewers fluid in two distinct points of the compound and to avoid clogging that would cause damage or affect the normal work of the Agency.

The provision of services foreseen in this tender include hands on and all the necessary equipment and tools to carry out the tasks related to the cleaning and non-obstruction of the sewers pipes marked in red, inspection in adjacent pass-through boxes (**annexes 1 and 2**) and removal of surplus material.

The services should be carried out once a month, outside working hours, preferably on Saturdays between 8:00-20:00, and the working areas where the services have been executed will have to be cleaned afterwards.

As part of the offer, the tenderer shall provide a description of the cleaning methods to be used.

##### **3. Contract management responsible body**

EMSA – Unit A.2.3, in charge of Facilities and Logistics, will be responsible for managing the contract.

##### **4. Timetable**

The estimated date for signature of the contract is 14 June 2017.

##### **5. Estimated Value of the Contract**

The maximum budget available for this contract is EUR 15,000.00 excluding VAT.

##### **6. Terms of payment**

Payments will be made in accordance with the provisions of the draft contract available in the Procurement Section under the call to tender EMSA/NEG/08/2017 on EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)).

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<sup>1</sup> Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1.).

## **7. Terms of contract (purchase order)**

When drawing up a bid, the tenderer should bear in mind the terms of the draft contract.

EMSA may, before the contract is signed, cancel the award procedure without the tenderers being entitled to claim any compensation.

## **8. Subcontracting**

If the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners he shall indicate in his offer which part will be subcontracted, as well as the name and qualifications of the subcontractor or partner. It should be noted that the overall responsibility for the work remains with the tenderer.

The tenderer must provide required evidence for the exclusion and selection criteria on its own behalf and when applicable on behalf of its subcontractors. The evidence for the selection criteria on behalf of subcontractors must be provided where the tenderer relies on the capacities of subcontractors to fulfil selection criteria<sup>2</sup>. The exclusion criteria will be assessed in relation to each economic operator individually. Concerning the selection criteria, the evidence provided will be checked to ensure that the tenderer and its subcontractors as a whole fulfil the criteria.

## **9. Requirements as to the tender**

Bids can be submitted in any of the official languages of the EU. However, as the main working language of the Agency is English, bids should preferably be submitted in English and should in particular include an English version of the documents requested under points 13.5 and 14 of the present tender specifications. The tenderer must comply with the minimum requirements provided for in these tender specifications. This includes compliance with applicable obligations under environmental, social and labour law established by Union law, national law and collective agreements or by the international environmental, social and labour law provisions listed in Annex X to Directive 2014/24/EU of the European Parliament and of the Council.<sup>3</sup>

The tenderer shall complete the Tenderer's checklist.

If the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners (Join Offers) he shall indicate it in his offer by completing the form "Information regarding joint offers and subcontracting".

The tender must be presented as follows and must include:

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<sup>2</sup> To rely on the capacities of a subcontractor means that the subcontractor will perform the works or services for which these capacities are required.

<sup>3</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

- a) **A signed cover letter** indicating the name and position of the person authorised to sign the contract/purchase order and the bank account on which payments are to be made.
- b) **The Financial Form** completed, signed and stamped. This document is available on the Procurement Section (Financial Form) of EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)).
- c) **The Legal Entity Form** completed, signed and stamped along with the requested accompanying documentation. This document is available on the Procurement Section (Legal Entity Form) of EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu))

Tenderers are exempt from submitting the Legal Entity Form and Financial Form requested if such a form has already previously been completed and sent either to EMSA or any EU Institution. In this case the tenderer should simply indicate on the cover letter the bank account number to be used for any payment in case of award.

**Part A:** All the information and documents required by the contracting authority for the appraisal of tenders on the basis of the points 8, 11 and 12.2 of these specifications (exclusion criteria).

**Part B:** All the information and documents required by the contracting authority for the appraisal of tenders on the basis of the Economic and Financial Capacity (part of the Selection criteria) set out under point 12.3 of these specifications.

**Part C:** All the information and documents required by the contracting authority for the appraisal of tenders on the basis of the Technical and professional capacity (part of the Selection Criteria) set out under point 12.4 of these specifications.

**Part D:** All the information and documents required by the contracting authority for the appraisal of tenders on the basis of the **Award Criteria** set out under point **13** of these specifications;

**Part E:** Setting out prices in accordance with point **10** of these specifications.

## **10. Price**

Price must be quoted for Preventive Cleaning of Sewage System Services in EMSA premises and shall include the hands-on and all necessary equipment and tools to carry out the cleaning works.

- a) Prices must be fixed amounts and non-revisable.
- b) Prices must be quoted in euro.
- c) Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Communities, the latter is exempt from all duties, taxes and other charges, including VAT. This applies to EMSA pursuant to the Regulation 1406/2002/EC. Therefore price and the amount of VAT must be shown separately.

## 11. Joint Offer

Groupings, irrespective of their legal form, may submit bids. Tenderers may, after forming a grouping, submit a joint bid on condition that it complies with the rules of competition. Such groupings (or consortia) must specify the company or person heading the project and must also submit a copy of the document authorising this company or person to submit a bid.

Each member of the consortium must provide the required evidence for the exclusion and selection criteria. The exclusion criteria will be assessed in relation to each economic operator individually. Concerning the selection criteria, the evidence provided by each member of the consortium will be checked to ensure that the consortium as a whole fulfils the criteria.

If awarded, the contract will be signed by the person authorised by all members of the consortium. Tenders from consortiums of firms or groups of service providers, contractors or suppliers must specify the role, qualifications and experience of each member or group.

## 12. Information concerning the personal situation of the tenderer and information and formalities necessary for the evaluation of the minimum economic, financial, technical and professional capacity required.

### 12.1 Legal position – means of proof required

When submitting their bid, tenderers are requested to complete and enclose the **Legal Entity Form** available on the Procurement Section of EMSA's website ( [www.emsa.europa.eu](http://www.emsa.europa.eu)).

### 12.2 Grounds for exclusion – Exclusion criteria

To be eligible to participate in this contract award procedure, a tenderer must not be in any of the following exclusion situations:

- a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations;
- b) it is subject to a final judgement or a final administrative decision establishing that it is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;
- c) it is subject to a final judgement or a final administrative decision establishing that it is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:
  - i. fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;
  - ii. entering into agreement with other persons with the aim of distorting competition;
  - iii. violating intellectual property rights;
  - iv. attempting to influence the decision-making process of the contracting authority during the award procedure;

- v. attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;
- d) it is subject to a final judgement establishing that the person is guilty of any of the following:
  - i. fraud
  - ii. corruption
  - iii. participation in a criminal organisation
  - iv. money laundering or terrorist financing
  - v. terrorist-related offences or offences linked to terrorist activities
  - vi. child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council
- e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an Authorising Officer, OLAF or the Court of Auditors;
- f) it is subject to a final judgement or a final administrative decision establishing that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95
- g) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the applicant is subject to:
  - i. facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;
  - ii. non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;
  - iii. decisions of the ECB, the EIB, the European Investment Fund or international organisations;
  - iv. decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or
  - v. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.

### **12.3 Economic and financial capacity – Selection criteria**

#### **12.3.1 Requirements:**

- a) The tenderer must be in stable financial position and must have the economic and financial capacity to perform the contract.

#### **12.4.2 Evidence:**

- a) Financial statements or their extracts for the last three years for which accounts have been closed.
- b) Statement of the overall turnover and, where appropriate, turnover relating to the relevant services for the last three financial years available.
- c) Tenderers are exempt from submitting the documentary evidence if such evidence has already been completed and sent to EMSA for the purpose of another procurement procedure and the provided documents

are up-to-date. In this case the tenderer should simply indicate on the cover letter the procurement procedure where the evidence has been provided.

- d) If, for some exceptional reason which EMSA considers justified, a tenderer is unable to provide one or other of the above documents, it may prove his economic and financial capacity by any other document which EMSA considers appropriate. In any case, EMSA must at least be notified of the exceptional reason and its justification in the tender. EMSA reserves the right to request at any moment during the procedure any other document enabling it to verify the tenderer's economic and financial capacity.

## **12.4 Technical and professional capacity – Selection criteria**

### **12.4.1 Requirements:**

- a) The tenderer shall demonstrate its experience in the provision of the same type of services, together with any available information on existing arrangements for the provision of comparable services for the last two years.

### **12.4.2 Evidence:**

- a) The tenderers shall provide a list of contracts for similar services concluded and performed in the last two years.
- b) The tenderer shall provide a full description of the cleaning equipment to be used for the provision of the services.

## **12.5 Declaration of Honour**

For this purpose, the Declaration of Honour available in the Procurement Section of EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)) shall be completed and signed.

## **13. Award criteria**

Only the tenders meeting the requirements of the exclusion and selection criteria will be evaluated in terms of quality and price.

The contract will be awarded to the tenderer who submits the most economically advantageous bid (the one with highest score) based on the following quality criteria and their associated weightings:

1. Quality criterion 1 ( $W_1 = 40\%$ ), Quality of the cleaning methods to be used;
2. Quality criterion 2 ( $W_2 = 10\%$ ), Quality of the equipment and tools proposed;

and the price criterion and associated weighting:

3. Price of the bid ( $W_{Price} = 50\%$ ).

For all bids evaluators will give marks between 0-10 (half points are possible) for each quality criterion.

The score is calculated as

$$S = SQ + SP$$

where:

The average quality for quality criterion  $i$  is

$$Q_i = \frac{1}{\text{number of evaluators}} * \sum_{\text{evaluator}} \text{mark of the evaluator for quality criterion } i$$

The overall weighted quality is

$$Q = \sum_i Q_i * W_i$$

The score for quality is

$$SQ = \frac{Q}{Q \text{ of the bid with highest } Q} * 100 * \sum_i W_i$$

The score for price is

$$PP = \sum_i \frac{\text{lowest Price}_i \text{ of all bids}}{\text{Price}_i} * 100 * W_{\text{Price}_i}$$

Only bids that have reached a minimum of 70 % for  $Q_1$ , a minimum of 70 % for  $Q_2$ , will be taken into consideration when calculating the score for quality  $SQ$ , score for price  $SP$  and score  $S$ .

Only bids that have reached a minimum of 70 % for the score  $S$  will be taken into consideration for awarding the contract.

#### 14. Rejection from the procedure

Contracts will not be awarded to tenderers who, during the procurement procedure, are in one of the following situations:

- a) are in an exclusion situation;
- b) have misrepresented the information required as a condition for participating in the procedure or have failed to supply that information;
- c) were previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise.

## **15. Intellectual Property Right (IPR)**

Please consult the contract for IPR related clauses.

If the results are not fully created for the purpose of the contract this should be clearly pointed out by the tenderer in the tender. Information should be provided about the scope of pre-existing rights, their source and when and how the rights have been or will be acquired.

In the tender all quotations or information originating from other sources and to which third parties may claim rights have to be clearly marked (source publication including date and place, creator, number, full title etc.) in a way allowing easy identification.